IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Public Interest Litigation No. 113 of 2006

Suresh Singh Mahar,
Son of Sri Bishan Singh Mahar,
Gram Pradhan of Gram Sabha, Ucholigoat
Resident of Village –Ucholigoat
Tehsil-Purnagiri
Tanakpur, District-Champwat.

……. Petitioner

Versus

1. The State of Uttaranchal through its Secretary, Mines and Mineral, Dehradun.
2. Commissioner, Kumaon Division, Nainital, District-Nainital.
3. District Magistrate, Champwat, District-Champawat.
4. Managing Director, Kumaon Mandal Vikas Nigam, Oak Park, Mallital, Nainital

……. Respondents

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. P.C. Verma, J.

RAJEEV GUPTA, C.J.(Oral)

1. Petitioner Suresh Singh Mahar, who is claiming himself to be the Gram Pradhan of the Gram Sabha, Ucholigoat, has field this petition Interest Litigation for the following reliefs:

(a) Issue a writ order or direction in the nature of Certiorari to quash the impugned order dated 26.12.2005 passed by the respondent District Magistrate /Collector, Champawat.

(b) Issue a writ order or direction in the nature of Mandamus commanding and directing the respondents not extraction of the minor minerals from the said area and construct a cement wall nearby the village boundary.

(c) issue any other writ order or direction which this Hon'ble Court may deem, fit and proper in the circumstances of the case.

2. During the course of hearing, we were informed by Sri. U.K. Uniyal, learned Additional Advocate General that statutory appeal filed against pending before the Appellate Authority and the fact of the pendency of the appeal has been deliberately suppressed by the petitioner with oblique motive.

3. Be that as it may the fact remains that the order impugned in the writ petition is subject matter of the statutory appeal pending before the Appellate Authority.

4. In this view of the matter, we decline to entertain the writ petition filed by the petitioner as Public Interest Litigation.

5. The petitioner however shall be at liberty to seek impleading in the said appeal.

6. With the above observation, the petition stands disposed of.

(P.C.Verma, J.) **(Rajeev Gupta, C.J.)**
07.02.2006 07.02.2006

Rajeev Dang